



May 20, 2019

Via mail and e-mail to counsel of record Morgan, Lewis & Bockius LLP

Please forward to:

Kristen Smith

Robert Tribeck

Anthony Misitano

Post Acute Medical, LLC

1828 Good Hope Road, Suite 102

Enola, PA 17025

Re: *MERIDIAN HOSPITAL SYSTEMS CORPORATION V. POST ACUTE MEDICAL, LLC, ET AL.*

Dear Post Acute Medical, LLC:

On March 11, 2019, Meridian served notice on you, Post Acute Medical LLC ("PAM"), for violations of the Services and Business Associate Agreement ("SBAA") and Authorized User Agreement to Term of Access to Data through the Meridian Software Pursuant to a Limited License Granted to User (collectively the "Agreements"). Thirty days expired and Meridian found PAM failed to cure such breaches, and on-going and incurable breaches exist despite representations that Mr. Sajeev Thomas' contractual violations and misappropriations were unauthorized. Meridian later learned that PAM fully authorized the violations and misappropriations, including giving surreptitious access to Meridian's software competitor. These actions are intentional, willful and intentional, and it is you who continues to disregard the law. The theft is blatant, and as such Meridian exercised its right to "deny access to any party at its sole discretion" but has not terminated the contract. SBAA, A(2). Access has been denied per the following:

A. SUBSCRIPTION TO PINPOINT®, MEDNARRATIVE, AND Q1 HEALTH SOFTWARE

1. Meridian grants to PAM a non-exclusive, non-transferable, limited license for use by PAM Affiliated Campus employees to access and use the Pinpoint®, MedNarrative, and Q1 Health Software solely for a PAM Affiliated Campus' internal operations. PAM shall pay the Fees and Charges described in Section D for each PAM Affiliated Campus listed on Schedule 2.
2. Hospitals may provide to Meridian login IDs and passwords for those employees of PAM Affiliated Campuses who will use the Pinpoint®, MedNarrative, and Q1 HealthSoftware ("Users"). Each login ID and password may only be used by a single User. Hospitals will ensure that all Users protect and safeguard all passwords from unauthorized use or disclosure. Meridian reserves the right to deny access to any party at its sole discretion.

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8117 Preston Rd, 3rd Floor
Dallas, Texas 75225

May 20, 2019

Page 2

As the SBAA has not been terminated, the remaining contractual fees are due and owing. Please see the attached invoices No, 1235, 1236, 1237 and remit payment in the amount of \$23,800.

PAM **improperly** used and accessed Meridian's confidential information and its trade secrets. PAM expressly agreed that it would use the software on a limited and internal basis and only for the treatment of patients. Furthermore, PAM agreed not to improperly reverse engineer, disassemble or to learn the ideas underlying the network software. PAM wholly failed to keep its agreement, and audaciously provided direct access to an unauthorized user and competitor to re-build Meridian's applications in violation of trade secret law and in breach of contract: Mr. Thomas stated, "Meridian disabled my account as there were too many accesses from India (and it's clear to them now that we are trying to build our own)."

Tim Chilcote

From: Sajeev Thomas
Sent: Wednesday, March 6, 2019 4:52 PM
To: 'Harinder Bhatia'
Cc: Mohun Kapur
Subject: RE: PAM - Call request

Importance: High

Please instruct everyone not try to login to Meridian.

Meridian disabled my account as there were too many accesses from India (and it's clear to them now that we are trying to build our own).

Regards

Sajeev Thomas

Upon discovery, legal counsel and executive Kristin Smith and Robert Tribeck "investigated" Mr. Sajeev Thomas' misappropriations and affirmatively stated that such actions were unauthorized, but that such actions were not intentional. **THIS IS AN ADMISSION OF BREACH.** PAM even agrees that breaches and unauthorized access occurred which negates any disparagement claim as any statement must be false. Further, such investigation was a sham and cover up, and PAM had no intention to prevent unauthorized sharing of Meridian's system. In fact, Kristen Smith signed a Master Services Agreement with KMG with a stated purpose to "mimic" the Meridian Software along with attachments (Requirement Files as shared by the client- 'MedNarrative Follow up Calendar Specifications' and 'Discharge (Rehab & LTACH) Calendar Functionality') that are copies and contain detailed documentation of the Meridian Software. Further, PAM was so brazen in their theft and misappropriation that they shared extensive amounts of screenshots directly from the Meridian Software (some of which clearly contained a Meridian copyright notice) with specific instructions as to the functionality. The Chief Legal Counsel of PAM stated: I have completed a preliminary investigation of what

8117 Preston Rd, 3rd Floor
 Dallas, Texas 75225

May 20, 2019

Page 3

occurred with respect to the sharing of login information by Sajeev Thomas, a PAM employee. While Mr. Thomas' sharing of his login credentials was wholly unauthorized, and in clear violation of PAM policy, there is no evidence to suggest that any PAM data or other confidential and proprietary information of Meridian was compromised.

See PAM's own "Conclusion and Recommendation" related to its own misdeeds, acknowledgement of such actions:

Kristen

Conclusion and Recommendation

I have completed a preliminary investigation of what occurred with respect to the sharing of login information by Sajeev Thomas, a PAM employee. While Mr. Thomas' sharing of his login credentials was wholly unauthorized, and in clear violation of PAM policy, there is no evidence to suggest that any PAM data or other confidential and proprietary information of Meridian was compromised.

That said, I would recommend that we seek, on our behalf and on behalf of Meridian, a written acknowledgment from both Key Management Group (KMG) and its employee who was given Mr. Thomas' credentials. Essentially, the KMG employee in question had the same access to our data in Meridian as any PAM employee would have. KMG (and its employees and representatives) are bound to confidentiality provisions under the terms of a Non-Disclosure Agreement dated May 2018 (attached).

My understanding is that Meridian is concerned that unauthorized and unknown users may have had access to both PAM and Meridian information. While KMG did have access to PAM data (and by virtue of the process in which it is delivered, some Meridian data), there is nothing to suggest any bad intent or theft by anyone. Apparently representatives of Meridian had expressed concern about "trust" and the relationship with PAM; I have seen nothing to suggest that anyone at PAM, other than Mr. Thomas, was aware of his decision to share his login credentials. Moreover, Mr. Thomas did not exhibit an intent to deceive, though I do believe that he at times does not use words and phrases in proper context. I did not get the initial impression that it was intentional.

There is nothing to suggest that anyone at PAM asked or even knew that Mr. Thomas had taken these actions. PAM's relationship with KMG was to utilize KMG to develop its own process for delivering certain information, certainly not to "copy" or "replicate" anything owned by Meridian. In the end,

1



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This investigation was a sham. Rather, PAM and KMG continued to end run around the protections established by Meridian. KMG proudly announced they could find a way to negate the single user agreement and Meridian's issuance of single user login credentials: "We will discuss in our call today on how we can access the module [Meridian's software applications]. May be a system within your network that we can VPN into and go thru the module [Meridian's software applications].

8117 Preston Rd, 3rd Floor
Dallas, Texas 75225

May 20, 2019

Page 4

Sajeev Thomas

From: Harinder Bhatia <Harinder.Bhatia@kmgus.com>
Sent: Thursday, March 7, 2019 1:12 AM
To: Sajeev Thomas
Cc: Mohun Kapur
Subject: RE: PAM - Call request

Sure. It was only me who had login.

For records, I tried to log in unsuccessfully - twice when you had changed the password.
And after you shared new password, I logged in 3 or max 4 times only - for not more than 10 minutes each time.

We will discuss in our call today on how we can access the module. May be a system within your network that we can VPN into and go thru the module. This will be request basis and not a full time access need.

Thanks !!
Regards,

Harinder Bhatia
Key Management Group / KMG Infotech Limited US : 125 Baylis Rd, Suite 260, Melville NY 11747 IN : 262 Udyog Vihar

Other violations have been found, and for these reasons access has been denied to prevent further misappropriation. PAM is responsible for all amounts due until the end of the contractual term. Please note that if PAM terminates the agreement, Meridian has the option to return or destroy all PHI and EPHI, and shall retain no copies. **A litigation hold has been issued and Meridian will destroy all such information upon cessation of the litigation.** PAM provided the underlying data to Meridian, and as such PAM has access to all PHI and EPHI. In the event, PAM requests the data it provided to Meridian, please request an invoice under Section D of the SBAA, and a statement of charges to be incurred for these additional services will be provided to PAM.

Meridian will not tolerate PAM's bold theft, disclosure of confidential and proprietary information, and improper reverse engineering and studying and documentation of its software applications. Meridian reserves all rights with respect to such claims and will exercise the full scope of its available legal remedies to prevent further tortious conduct by PAM and KMG.

Sincerely,

Chris LeBlanc

Meridian Hospital Systems Corporation

8117 Preston Rd, 3rd Floor
Dallas, Texas 75225